

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TRANSCRIPT OF AUDIO-RECORDED PROCEEDINGS  
BEFORE THE HONORABLE LINDA T. WALKER,  
UNITED STATES MAGISTRATE JUDGE

## TELECONFERENCE

Monday, May 15, 2017

APPEARANCES OF COUNSEL:

For the Plaintiff: OFFICE OF THE U.S. ATTORNEY  
(By: Douglas W. Gilfillan)

For the Defendant: DENTONS US LLP  
(By: Rachel M. Cannon)

Proceedings digitally audio-recorded, then transcribed by  
mechanical stenography and computer by  
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## Monday Morning Session

May 15, 2017

10:33 a.m.

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## PROCEDING S

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(In open court by teleconference:)

THE COURT: Okay. Good morning.

MS. CANNON: Good morning, Your Honor.

MR. GILFILLAN: Good morning, Judge.

14 It's my understanding we have on the line  
15 Ms. Rachel Cannon on behalf of the defendant, and  
16 Mr. Douglas Gilfillan on behalf of the government.

17 I wanted to sort of give you an update.

18 As you may recall, I think it was last week  
19 I requested sort of a status update as to where we were in  
20 the competency evaluation of Mr. Kight with Dr. Marks, and at  
21 that time I was informed that she had not yet had the  
22 evaluation and that -- conducted it. It was going to be  
23 conducted on or about the 22nd, Monday the 22nd, I believe.  
24 So I followed up with her.

25 | And I guess I was a little bit -- maybe a little

1           surprised when I was informed by the parties that her  
2           evaluation was going to be about three hours of the  
3           defendant, Mr. Kight, which is a little different from  
4           almost every -- not a little, a lot different from all  
5           the other evaluations that I have ever reviewed or  
6           considered.

7                   So in any event, I did follow up with Dr. Marks,  
8 and what she indicated to me is that she has not started  
9 reviewing any of the records; that she was going to start  
10 Thursday, May 18th; and that because of the volume of the  
11 records she had received, she was going to have to push the  
12 evaluation back at least till June 7th, 2017.

22 And based on her responses, and for a number of  
23 reasons, I think what I'm going to need to do is to sort of  
24 go in a little bit of a different direction, someone with a  
25 little bit more expertise in neuropsychological issues or

1 expertise or capacity for cognitive disorders.

2 And so that's what I'm looking at.

3 She has not looked at anything yet, and the three  
4 of us -- it was a little concerning for the Court, I wanted  
5 to make sure that whatever report that the Court obtains and  
6 the parties obtains, that it is sufficient and inclusive and  
7 seriously considers whatever cognitive impairments that  
8 Mr. Kight is suffering from, or allegedly suffering from,  
9 things of that nature.

10 So I think what we are going to do is I'm going to  
11 find someone who has more of a specialty in the  
12 neuropsychological arena, and I expect to find someone in  
13 that area hopefully this week. This week. I'm not going to  
14 prolong it.

15 I'm probably going to have defendant -- I haven't  
16 told Ms. Marks -- I'm sorry, Dr. Marks this yet. She was  
17 aware of some of the Court's concerns when I spoke to her,  
18 particularly the length of the evaluation, the type of  
19 evaluation. We didn't get into all of the semantics of how  
20 she was going to do it, but the length.

21 And so -- and she indicated to the Court that she  
22 knows she's testified in state court, but she's not sure she  
23 has ever done it in federal court.

24 So in any event, I think we are going to go --  
25 well, I know we are going to go in a little bit different

1 direction and find somebody who specializes in a little bit  
2 more of the issues at hand in this case and not just our  
3 standard competency forensic evaluation. Okay?

4 MS. CANNON: Sure.

5 THE COURT: Okay. So I apologize. We are not  
6 going to delay this. I know that both parties want to get  
7 this behind them one way or the other, and so hopefully we  
8 will -- maybe by the end of the week I can let you know who  
9 that person is. Is that okay?

10 MS. CANNON: Sure.

11 Judge, if it would be useful, we did make some  
12 inquiries as well and did get a name of somebody who does  
13 competency evaluations and does specialize in these kind of  
14 neuropsychological issues.

15 We never -- we didn't reach out to him. We were  
16 just given a name. So I'm happy to forward that name to the  
17 Court and Mr. Gilfillan. I don't -- you know, everyone is  
18 kind of welcome to agree on him or not.

19 I really don't know anything about him. I just  
20 know that the area, there is only a few people that  
21 specialize in it, so I imagine that the pool of eligible  
22 doctors isn't all that large.

23 But I'm happy to forward that name along for your  
24 consideration.

25 THE COURT: Okay. Thank you. I appreciate that.

1                   MR. GILFILLAN: And, Your Honor, I certainly --  
2 I think that would -- maybe could help. I would like to see  
3 who Ms. Cannon would identify.

4                   And then I don't know if the Court would  
5 consider -- I mean, I will throw out a name:  
6 Dr. Michael Hilton.

7                   He has done a lot of stuff, and he may not be a  
8 specialist as far as neuropsych, but, I mean, Dr. Hilton is  
9 pretty experienced, and a large part of his practice is  
10 competency exams, and I wonder if the Court would consider  
11 him?

12                  THE COURT: Okay. Thank you.

13                  And so, Ms. Cannon, if you will submit your name to  
14 me too, that will be a great help. But I'm trying to get  
15 this done for you and keep it moving. Okay?

16                  MS. CANNON: Sounds good.

17                  THE COURT: Okay. Thank you both for considering  
18 it.

19                  And I will let Dr. Marks know that we are going to  
20 go in a little bit different direction; okay?

21                  MS. CANNON: Okay.

22                  THE COURT: Okay. Thank you very much. Have a  
23 good day.

24                  MS. CANNON: Okay. Thank you.

25                  MR. GILFILLAN: Thank you, Judge.

1 MS. CANNON: Goodbye.

2 THE COURT: Goodbye.

3 (Proceedings adjourn at 10:40 a.m.)

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1 C E R T I F I C A T E  
23 UNITED STATES OF AMERICA :  
4 NORTHERN DISTRICT OF GEORGIA :  
56 I, Nicholas A. Marrone, RMR, CRR, Official Court  
7 Reporter of the United States District Court for the Northern  
8 District of Georgia, do hereby certify to the best of my  
9 ability that the foregoing 8 pages constitute a true  
10 transcript of audio-recorded proceedings had before the said  
11 Court, held in the city of Atlanta, Georgia, in the matter  
12 therein stated.13 In testimony whereof, I hereunto set my hand on  
14 this, the 22nd day of June, 2017.15  
16  
17 /s/ *Nicholas A. Marrone*  
1819 NICHOLAS A. MARRONE, RMR, CRR  
20 Registered Merit Reporter  
Certified Realtime Reporter  
Official Court Reporter  
Northern District of Georgia  
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